

2005-06 HONOLULU CHARTER COMMISSION
CHARTER AMENDMENT PROPOSAL FORM

1. Provide a brief description of the purpose of the proposed charter amendment; include a description of the problem the proposal would address and how the proposal would address the problem:

Proposal: Amend the charter to (1) establish a deadline for the mayor to transmit to the council the planning commission's recommendations on proposals to adopt or amend the general plan, development plans, and zoning ordinances; and (2) establish deadlines for the director of planning and permitting and the planning commission to process council proposals to revise or amend the general plan, development plans, and zoning ordinances.

Description of Problems:

Under Section 6-1506(b) of the charter, the planning commission holds public hearings and makes recommendations on all proposals to adopt or amend the general plan, development plans, and zoning ordinances, and transmits its recommendations "through the mayor" to the council for consideration and action. However, although the charter requires the planning commission to act "in a timely manner," the charter does not provide a deadline for the mayor to forward the planning commission recommendations to the council. In one instance, the planning commission transmitted its recommendations on a proposal to amend the Land Use Ordinance ("LUO") on October 1, 2003, but the mayor did not forward the recommendation to the council until May 14, 2004, more than six months later, thereby precluding the council from considering and acting on the proposal until that time. See Departmental Communication No. 470 (2004).

Further, Section 6-1513 of the charter provides that any revision of or amendment to the zoning ordinances may be proposed by the council and shall be processed in the same manner as if proposed by the director of planning and permitting. Section 6-1513 further provides that any such revision or amendment shall be referred to the director of planning and permitting and planning commission by resolution. (For the purposes of the charter, the term "zoning ordinances" refers both to the codification of land use standards in the LUO and to ordinances zoning and rezoning particular parcels of property. Sec. 6-1514, RCH.) Charter Section 6-1511.2 establishes a similar procedure for council-proposed revisions or amendments to the general plan or any existing development plan. However, the charter does not provide a deadline for the director of planning and permitting to transmit to the planning commission revisions of or amendments to the general plan, development plans, or zoning

ordinances proposed by the council and the director's report thereon. If there are no deadlines for the processing of council-proposed amendments to the general plan, development plans, and zoning ordinances, the executive branch could delay or defeat the council's proposals by failing to process the proposals, either intentionally or by neglect. This is contrary to the charter's structure of coequal branches of government and is not in the public interest.

2. If applicable, list the charter provision(s) proposed to be deleted or amended:

Amend Charter Sections 6-1506(b), 6-1511.2, and 6-1513.

3. If the proposal is based on a provision or provisions in the charter or law of another jurisdiction, name the jurisdiction and, if possible, attach a copy of the relevant provision(s).

N/A.

4. If the proposal is based on any written materials you have, please attach a copy with a citation to its source.

N/A.

See reverse of this form

5. Attach the text of the proposed charter amendment in Ramseyer format (see below).

Ramseyer Format:

If proposing an amendment to existing Charter provisions, indicate, by underscoring, any language being proposed to be added to the Charter and indicate, by bracketing, any language being proposed to be deleted from the Charter.

If proposing to replace existing Charter provisions in their entirety, clearly indicate the article(s), chapter(s) and/or section(s) of the Charter proposed to be deleted, and provide the text of any provisions proposed to replace the deleted material.

If proposing new Charter material only, provide the text of the new provision(s) and, if possible, indicate where in the Charter the new material should be inserted.

**Please submit this form and attachments by mail, e-mail, or fax.
Submissions are due October 31, 2005.**

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Thank you for participating in the charter revision process!

- 1) Proposed amendment to Charter Section 6-1506 (in Ramseyer format):

"Section 6-1506. Powers, Duties and Functions --

The planning commission shall:

(a) Advise the mayor, council and director of planning and permitting on matters concerning the planning programs.

(b) Hold public hearings and make recommendations on all proposals to adopt or amend the general plan, development plans, and zoning ordinances. The commission shall complete its review and transmit its recommendations through the mayor to the council in a timely manner[.], provided that council proposals for revisions of or amendments to the general plan, development plans, or zoning ordinances shall be processed in accordance with Sections 6-1511.2 or 6-1513, whichever is applicable. The mayor shall transmit the recommendations to the council within thirty days of receipt of the same from the planning commission.

(c) Perform such other related duties as may be necessary to fulfill its responsibilities under this charter or as may be assigned by the mayor or the council."

- 2) Proposed amendment to Charter Section 6-1511.2 (in Ramseyer format):

"Section 6-1511. Adoption of the General Plan and Development Plans --

....

2. Any revision of or amendment to the general plan or any existing development plan may be proposed by the council and shall be processed in the same manner as if proposed by the director[.], subject, however, to the requirements of this subsection. Any such revision or amendment shall be referred to the director and the planning commission by resolution, which resolution shall be accompanied by supporting documentation sufficient to satisfy the director's usual requirements for the commencement of processing. Within ninety days after receipt of the proposal, the director shall submit a report on the proposal and a proposed resolution or ordinance, whichever is applicable, to the planning commission, provided that if the director finds that the proposal involves complex issues that require additional time for review, the director may request, and the council may approve, extensions of the deadline. The planning commission shall commence processing the proposal upon the first to occur of: (1) receipt of the director's report and proposed resolution

or ordinance, or (2) the director's failure to transmit the report and proposed resolution or ordinance by the required deadline, including any extensions approved by the council. The planning commission shall hold a public hearing on the proposal within sixty days of the commencement of processing. Within thirty days after the close of the public hearing, the planning commission shall transmit through the mayor to the council the director's report, if any, and proposed resolution or ordinance with its recommendations. The mayor shall transmit the director's report, if any, proposed resolution or ordinance, and planning commission recommendations to the council within the time period set forth in Section 6-1506. If the planning commission disapproves the proposed revision or amendment or recommends a modification thereof, not accepted by the council, or fails to make its report within a period of either thirty days after close of its public hearing or ninety days after [its receipt] the commencement of processing by the commission, whichever occurs first, the council may nevertheless adopt such a revision or amendment, but only by the affirmative vote of at least two-thirds of its entire membership.

Any revision of or amendment to the general plan or any existing development plan which has been processed as an "unendorsed proposal" shall, in the absence of an affirmative recommendation from the planning commission, require for its adoption the affirmative vote of at least two-thirds of the entire membership of the council."

3) Proposed amendment to Charter Section 6-1513 (in Ramseyer format):

"Section 6-1513. Council Proposals for Amendments to the Zoning Ordinances --

Any revision of or amendment to the zoning ordinances may be proposed by the council and shall be processed in the same manner as if proposed by the director[.], subject, however, to the requirements of this section. Any such revision or amendment shall be referred to the director and the planning commission by resolution, which resolution shall be accompanied by supporting documentation sufficient to satisfy the director's usual requirements for the commencement of processing. Within ninety days after receipt of the proposal, the director shall submit a report on the proposal and a proposed ordinance to the planning commission, provided that if the director finds that the proposal involves complex issues that require additional time for review, the director may request, and the council may approve, extensions of the deadline. The planning commission shall commence processing the proposal upon the first to occur of: (1) receipt of the director's report and proposed ordinance, or (2) the director's failure to transmit the report and proposed ordinance by the required deadline, including any extensions approved by the council. The planning commission shall hold a public hearing on the

proposal within sixty days of the commencement of processing. Within thirty days after the close of the public hearing, the planning commission shall transmit through the mayor to the council the director's report, if any, and proposed ordinance with its recommendations. The mayor shall transmit the director's report, if any, proposed ordinance, and planning commission recommendations to the council within the time period set forth in Section 6-1506. If the planning commission disapproves the proposed revision or amendment or recommends a modification thereof, not accepted by the council, or fails to make its report within a period of either thirty days after close of its public hearing or ninety days after [its receipt] the commencement of processing by the commission, whichever occurs first, the council may nevertheless adopt such a revision or amendment, but only by the affirmative vote of at least two-thirds of its entire membership."